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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 OAKLAND DIVISION

11 QIANG LU,) No. C 07-4221 SBA

12 Plaintiff,)

13 v.)

14 MICHAEL CHERTOFF, Secretary of the) JOINT CASE MANAGEMENT
15 Department of Homeland Security; et al.,) STATEMENT

16 Defendants.)

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18 1. Jurisdiction and Service: There are no issues concerning personal jurisdiction. Plaintiff
19 brought this Complaint under 28 U.S.C. §§ 1331 and 1336, and under the Administrative Procedure
20 Act. All parties have been served.

21 2. Facts: On August 27, 2004, Plaintiff filed a Form I-485 application for adjustment of
22 status to Legal Permanent Resident with USCIS. On the same day, a derivative I-485 application
23 was filed on his wife's behalf. On August 17, 2007, Plaintiff filed this Complaint for a Writ in the
24 Nature of Mandamus, alleging that Defendants are unlawfully withholding or unreasonably delaying
25 action on his I-485 application, and asking the Court to compel USCIS to adjudicate both
26 applications for adjustment of status. Plaintiff's name check is still pending with the Federal Bureau
27 of Investigation. Plaintiff contends that his wife's name check remains pending; Defendants contend
28 that the status of her name check is irrelevant to his claims.

CASE MANAGEMENT STATEMENT

No. C 07-4221 SBA

1 3. Legal Issues: The principal legal issue the parties dispute is whether the Court has
2 jurisdiction to compel agency action in this case and if so, whether a writ a mandamus should issue
3 to remedy Defendants' alleged unreasonable delay in adjudicating Plaintiff's application.
4 Defendants also contend that as a pro se plaintiff, Plaintiff may not argue for any relief for anyone
5 other than himself, and that because his wife's application cannot be adjudicated until his application
6 has been decided, there is no delay on her application.

7 4. Motions: The parties filed cross motions for summary judgment.

8 5. Amendment of Pleadings: None.

9 6. Evidence Preservation: None.

10 7. Disclosures: The parties agree that this Court's review will be confined to the
11 administrative record and therefore this proceeding is exempt from the initial disclosure
12 requirements under Fed. R. Civ. P. 26.

13 8. Discovery: There has been no discovery to date and the parties believe this matter can be
14 resolved without discovery. No experts will be designated.

15 9. Class Actions: Not applicable.

16 10. Related Cases: None.

17 11. Relief: Plaintiff asks the Court to direct the agency to adjudicate his adjustment of status
18 application and the derivation application on his wife's behalf. This case does not involve damages.

19 12. Settlement and ADR: The parties filed a Joint Request to Be Exempt From Formal ADR
20 on December 4, 2007.

21 13. Consent to Magistrate Judge for All Purposes: Defendants did not consent to assignment
22 of this case to a United States Magistrate Judge.

23 14. Other References: None.

24 15. Narrowing of Issues: None.

25 16. Expedited Schedule: The parties believe this matter can be solved through the motions.

26 17. Scheduling: The cross motions for summary judgment will be heard March 11, 2008,
27 at 1:00 p.m.

28 18. Trial: The parties believe the matter will be resolved through the motions for summary

1 judgment.

2 19. Disclosure of Non-party Interested Entities or Persons: None.

3 20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this
4 matter: None.

5 Dated: February 29, 2008

Respectfully submitted,

6 JOSEPH P. RUSSONIELLO
United States Attorney

7 /s/
8 MELANIE L. PROCTOR¹
9 Assistant United States Attorney
Attorneys for Defendants

10 Dated: February 29, 2008


11 QIANG LU
12 Pro Se

CASE MANAGEMENT ORDER

14 The Joint Case Management Statement and Proposed Order are hereby adopted by the Court
15 as the Case Management Order for the case, and the parties are ordered to comply with this Order.
16 IT IS SO ORDERED.

17 Dated:

18 SAUNDRA BROWN ARMSTRONG
19 United States District Judge

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28 ¹I, Melanie L. Proctor, hereby attest that I have on file all holograph signatures for any
signatures indicated by a "conformed" signature (/s/) within this efiled document.